

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 773 Satellite Hospital Facilities
SPONSOR(S): Jennings and others
TIED BILLS: None. **IDEN./SIM. BILLS:** SB 1306 (i)

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Health Care		Rawlins	Collins
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

The Certificate of Need (CON) regulatory process under chapter 408, F.S., requires that before specified health care services and facilities may be offered to the public they must be approved by the Agency for Health Care Administration (AHCA). A certificate of need is defined in s. 408.032(3), F.S., as "a written statement issued by the agency evidencing community need for a new, converted, expanded, or otherwise significantly modified health care facility, health service, or hospice." Florida law provides for 20 exemptions to the CON process.

This bill amends s. 408.036, F.S., to exempt from CON review the transfer of up to 100 acute care hospital beds to establish a satellite hospital facility within the same county, provided the licensed hospital meets the following conditions:

- ✓ The hospital's census of all licensed acute care beds has been below 60 percent for the 5 years prior to the time it notifies the agency of its intention to establish the satellite hospital facility;
- ✓ The hospital's combined gross revenue from Medicaid and charity patients exceeds \$60 million per year for the 2 years prior to the time it notifies the agency of its intention to establish the satellite hospital facility;
- ✓ The satellite hospital facility meets all the hospital licensure requirements under chapter 395, F.S., and
- ✓ The satellite hospital facility is limited in size to the 100 licensed acute care beds transferred from the existing facility.

A hospital would not be eligible for this exemption if all licensed hospital beds in the county were owned by the same corporation. The bill limits the maximum size and type of beds for new satellite construction, indicating that they must be transferred from an existing facility but does not limit the number of satellite facilities a hospital could create. Existing large hospitals could theoretically establish more than one satellite hospital.

The bill provides an effective date of July 1, 2004.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0773.hc.doc
DATE: March 24, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|-----------------------------|------------------------------|
| 1. Reduce government? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. Empower families? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. EFFECT OF PROPOSED CHANGES:

This bill amends s. 408.036, F.S., to exempt from CON review the transfer of up to 100 acute care hospital beds to establish a satellite hospital facility within the same county, provided the licensed hospital meets the following conditions:

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- The satellite hospital facility is limited in size to the 100 licensed acute care beds transferred from the existing facility.

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The bill limits the maximum size and type of beds for new satellite construction, indicating that they must be transferred from an existing facility but does not limit the number of satellite facilities a hospital could create. Existing large hospitals could theoretically establish more than one satellite hospital.

The bill takes effect July 1, 2004.

PRESENT SITUATION

The CON regulatory process under chapter 408, F.S., requires that before specified health care services and facilities may be offered to the public they must be approved by the Agency for Health Care Administration (AHCA). A certificate of need is defined in s. 408.032(3), F.S., as "a written statement issued by the agency evidencing community need for a new, converted, expanded, or otherwise significantly modified health care facility, health service, or hospice." Section 408.036, F.S., specifies which health care projects are subject to CON review. Subsection (1) of that section lists the projects that are subject to full comparative review in batching cycles by AHCA against specified criteria. Subsection (2) lists the kinds of projects that can undergo an expedited review. These include: research, education, and training programs; shared services contracts or projects; a transfer of a certificate of need; certain increases in nursing home beds; replacement of a health care facility when the proposed project site is located in the same district and within a 1-mile radius of the replaced facility; and certain conversions of hospital mental health services beds to acute care beds. Subsection

(3) lists projects that may be exempt from full comparative review upon request. Florida law provides 20 exemptions to the CON review process. Exemptions from CON review may be granted for:

- ✓ Replacement of a licensed health care facility on the same site, provided that the number of beds in each licensed bed category will not increase.
- ✓ Hospice services or for swing beds in a rural hospital, as defined in s. 395.602, F.S., in a number that does not exceed one-half of its licensed beds.
- ✓ The conversion of licensed acute care hospital beds to Medicare and Medicaid certified skilled nursing beds in a rural hospital, as defined in s. 395.602, F.S., so long as the conversion of the beds does not involve the construction of new facilities.
- ✓ The addition of nursing home beds at a skilled nursing facility that is part of a retirement community that provides a variety of residential settings and supportive services and that has been incorporated and operated in this state for at least 65 years on or before July 1, 1994. All nursing home beds must not be available to the public but must be for the exclusive use of the community residents.
- ✓ An increase in the bed capacity of a nursing facility licensed for at least 50 beds as of January 1, 1994, under part II of chapter 400 which is not part of a continuing care facility if, after the increase, the total licensed bed capacity of that facility is not more than 60 beds and if the facility has been continuously licensed since 1950 and has received a superior rating on each of its two most recent licensure surveys.
- ✓ An inmate health care facility built by or for the exclusive use of the Department of Corrections as provided in chapter 945, F.S.
- ✓ The termination of an inpatient health care service, upon 30 days' written notice to the agency.
- ✓ The delicensure of beds, upon 30 days' written notice to the agency.
- ✓ The provision of adult inpatient diagnostic cardiac catheterization services in a hospital.
- ✓ Mobile surgical facilities and related health care services provided under contract with the Department of Corrections or a private correctional facility operating pursuant to chapter 957, F.S.
- ✓ State veterans' nursing homes operated by or on behalf of the Florida Department of Veterans' Affairs in accordance with part II of chapter 296, F.S., for which at least 50 percent of the construction cost is federally funded and for which the Federal Government pays a per diem rate not to exceed one-half of the cost of the veterans' care in such state nursing homes.
- ✓ Combination within one nursing home facility of the beds or services authorized by two or more certificates of need issued in the same planning subdistrict.
- ✓ Division into two or more nursing home facilities of beds or services authorized by one certificate of need issued in the same planning subdistrict.
- ✓ The addition of hospital beds licensed under chapter 395, F.S., for acute care, mental health services, or a hospital-based distinct part skilled nursing unit in a number that may not exceed 10 total beds or 10 percent of the licensed capacity of the bed category being expanded, whichever is greater.
- ✓ The addition of acute care beds, as authorized by rule consistent with s. 395.003(4), F.S., in a number that may not exceed 10 total beds or 10 percent of licensed bed capacity, whichever is greater, for temporary beds in a hospital that has experienced high seasonal occupancy within the prior 12-month period or in a hospital that must respond to emergency circumstances.
- ✓ The addition of nursing home beds licensed under chapter 400, F.S., in a number not exceeding 10 total beds or 10 percent of the number of beds licensed in the facility being expanded, whichever is greater.
- ✓ Establishment of a specialty hospital offering a range of medical service restricted to a defined age or gender group of the population or a restricted range of services appropriate to the diagnosis, care, and treatment of patients with specific categories of medical illnesses or disorders, through the transfer of beds and services from an existing hospital in the same county.
- ✓ The conversion of hospital-based Medicare and Medicaid certified skilled nursing beds to acute care beds, if the conversion does not involve the construction of new facilities.

- ✓ An adult open-heart-surgery program to be located in a new hospital provided the new hospital is being established in the location of an existing hospital with an adult open-heart-surgery program, the existing hospital and the existing adult open-heart-surgery program are being relocated to a replacement hospital, and the replacement hospital will utilize a closed-staff model.
- ✓ The provision of adult open-heart services in a hospital located within the boundaries of Palm Beach, Polk, Martin, St. Lucie, and Indian River Counties if specified conditions are met.

Section 408.036(1)(b), F.S., requires CON review for new construction or the establishment of additional health care facilities. Under s. 408.032(8), F.S., a hospital is defined as a health care facility. "Satellite" hospital is not defined in chapter 408, F.S. (related to CON), chapter 395, F.S. (related to hospital licensure), or in administrative rules associated with these two chapters.

Rule 59C-1.030, F.A.C., sets forth the health care access criteria to be used in the review of an application. These criteria include the extent to which all residents of the district, and in particular low income persons, racial and ethnic minorities, women, handicapped persons, other underserved groups and the elderly, are likely to have access to the facility's services and the extent to which Medicare, Medicaid and medically indigent patients are served by the applicant. In any case where it is determined that an approved project does not satisfy the health care access criteria AHCA may, if it approves the application, impose the condition that the applicant must take affirmative steps to meet those criteria.

C. SECTION DIRECTORY:

Section 1. Amends s. 408.036, F.S., to exempt from CON review the transfer of up to 100 acute care hospital beds to establish a satellite hospital facility within the same county, provided the licensed hospital meets specific criteria.

Section 2. Provides for an effective date of July 1, 2004.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Depending on what data hospitals currently collect, the requirement that they report census information may or may not affect them. Local health councils that are not currently collecting census data may need staff to collect such data.

The proposed revision may change the number of CON applications reviewed by AHCA, but there is no way to estimate how the proposed change will affect the number of applications. According to AHCA, this could affect approximately 33 hospitals, potentially a number of times.

D. FISCAL COMMENTS:

As written, the "Whereas" clauses have the potential for placing the state in a situation of liability for health care services.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The agency has existing rule making authority for implementing the provision for the Certificate of Need. No additional rule making authority is needed

C. DRAFTING ISSUES OR OTHER COMMENTS:

According to the agency, in some cases, the facility that built a satellite could qualify for another CON exemption, under s. 408.036(3)(o), F.S., in as little as 12 months after beds were transferred to establish the satellite hospital. Under s. 408.036(3)(o), F.S., a hospitals may add up to 10 beds or ten percent of their existing beds (whichever is greater) if their occupancy for the prior 12 months is 80 percent or greater without CON review. This would have the effect of adding beds to hospital planning areas by first permitting the hospital to move beds, and then relatively quickly allowing it to re-license a portion of its existing beds at the safety net facility.

According to AHCA, the condition that sets a minimum dollar amount for provision of care to the medically indigent currently would be met by 30 to 40 hospitals, depending on the specific reporting year, of the licensed acute care hospitals in the state.

The condition that requires a specific occupancy in an existing facility cannot be verified by AHCA under current reporting procedures. Therefore, hospitals would be required to report additional information to the Agency's contracted data gatherers. Hospital claims of 5-year compliance could not be verified until five years from the time reporting procedures were changed. If the phrase "annual percentage of occupancy" was substituted for the word "census," no additional reporting would be necessary and AHCA could verify 5-year claims of compliance immediately.

The bill requires the satellite created by the transfer of beds to be located within the same county as the parent hospital. Where counties are divided into multiple planning areas for the establishment of, or addition to, acute care facilities, the bill affects health planning methodologies currently in place. If the phrase "acute care sub-district as defined in 59C-2.100, Florida Administrative Code," were substituted for "county," there would be no effect on adjacent planning areas.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES